

Kansas State Board of Pharmacy -Your Rights Before the Board

The Kansas Board of Pharmacy is a regulatory agency that licenses pharmacists, and registers pharmacy interns, pharmacy technicians, and pharmacy related businesses who do business in the state of Kansas or ship into the state of Kansas. The mission of the Kansas Board of Pharmacy is to ensure that all persons and entities conducting business relating to the practice of pharmacy in this state are properly licensed and registered so as to protect the public's health, safety and welfare and to promote the education and understanding of pharmacy related practices. The regulatory process and licensing and registration assures citizens of Kansas that pharmacists and registered pharmacy related businesses have met minimum competence requirements. For pharmacists, testing establishes minimum competence. Statutes and regulations found in the Kansas Pharmacy Practice Act defines a pharmacist's scope of practice and outline unacceptable conduct. There are actions for which a license or registration may be called into question. When a licensee or registrant's conduct is questioned, the Kansas Board of Pharmacy has authority to investigate and collect information. If a complaint is received the Kansas Board of Pharmacy is required to investigate the matter.

Kansas Board of Pharmacy's Scope of Authority

If the Kansas Board of Pharmacy believes a violation of Kansas Pharmacy Practice Act has occurred it may commence an administrative action against a license or registration. The Board through an administrative action may deny, revoke, suspend, limit, or publicly or privately censure a license or registration. The Board may also levy fines against a license or registration.

Kansas Administrative Procedure Act

The Kansas Board of Pharmacy is a regulatory agency. All disciplinary actions before the Kansas Board of Pharmacy are subject to the Kansas Administrative Procedure Act (KAPA). The KAPA is a set of statutes that outline the procedures the Kansas Board of Pharmacy must follow. It provides for due process. This includes things such as reasonable notice, fair and impartial hearing, and right to representation, right to question witnesses or present evidence. KAPA is applied to all regulatory agencies of varying sizes.

Informal Resolutions

The Board of Pharmacy Investigative Member may request the licensee/registrant to sign an agreement and/or meet conditions designed to impose an educational remedy. In this way the Board's primary purpose of protecting the public is met and the licensee's/registrant's practice is improved and maintained.

Formal Discipline Process

The process can begin one of two ways. First, a licensee/registrant may receive a document called a "Summary Order". This document states the facts and legal reasons for action on a license. If the licensee disagrees he/she may request a hearing. Second, a licensee/registrant may be served with a petition stating facts and law and asking for action upon the license/registration.

The request for hearing by the licensee/registrant or petition filed by the Board Attorney is followed by a notice of hearing which sets a time and date for the licensee/registrant to appear and defend. The notice gives directions on how to ask for additional time (called a continuance) if a licensee is unable to appear on the date set. The notice also warns that if a licensee fails to appear or contact the Kansas Board of Pharmacy the matter will proceed and judgment may be entered in the matter affecting the license. Documents and statements may be requested by the licensee or the Board's attorney and are exchanged in a process known as discovery.

You may appear in front of the entire Board, a panel of Board members or the Board's appointed hearing officer. A licensee/registrant may represent themselves or be represented by an attorney. The proceeding is recorded. Oaths are administered to those who testify. Each party can require witnesses to appear and testify. Each party may cross-examine witnesses presented by the other side. Each party may submit exhibits. The hearing officer / panel may also ask questions. Evidence may be written or oral and must be relevant to the claim. Hearsay can be introduced and is to be weighed appropriately. Evidence submitted varies from case to case.

If your fitness to practice pharmacy is in question, factors to be considered include but are not limited to: (1) danger to the public health safety and welfare, (2) the present moral fitness, (3) the licensee's/registrant's consciousness of what they did wrong and the effect on the profession, (4) what the licensee did and is doing for rehabilitation (5) nature and seriousness of misconduct, (6) current conduct, (7) time elapsed since prior discipline or criminal activity, (8) character, maturity and experience (9) present competence and skill. These points are not all inclusive.

At the conclusion the hearing officer/panel weighs and considers the evidence and renders a decision. A written order, which consists of findings of fact, conclusions of law, and any sanctions imposed, is served upon the parties after the decision. The written order will state the time when it becomes effective and provide notice to both sides of their appeal rights.

Appeal Process

Within a set period of time the parties have the right to request to have a decision reviewed by the Board. If the Board affirms the decision, or if the Board declines to review the decision, or makes a decision not liked by either party, either party may appeal to District Court. An appeal in District Court is subject to an act called the Kansas Judicial Review Act (KJRA). Appeals to District Court for the Kansas Board of Pharmacy are not tried again. The KJRA sets out the court's scope of review. The court considers the party's stated appeal grounds and decides whether the Kansas Board of Pharmacy's order/record is supported by substantial evidence. Once the District Court enters its order either party, if not satisfied, has one more opportunity for appeal to the Court of Appeals or Supreme Court of the State. There are established time lines in which such requests or notices must be filed.

Disclaimer

The information provided in this sheet not intended to be legal advice or a complete explanation of legal rights.

Note: Pharmacy laws are available at www.kansas.gov/pharmacy under Kansas Pharmacy & Related Laws.